

STATEMENT OF ANTHONY J. BRODERICK, ASSOCIATE ADMINISTRATOR FOR
REGULATION AND CERTIFICATION, FEDERAL AVIATION ADMINISTRATION,
BEFORE THE HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT, CONCERNING FOREIGN
AIR CARRIER OPERATIONS. JUNE 4, 1991.

Mr. Chairman and Members of the Subcommittee:

I am Anthony Broderick, FAA's Associate Administrator for Regulation and Certification. I oversee FAA's air carrier regulatory and surveillance functions, including oversight of foreign air carrier operations under Part 129 of the Federal Aviation Regulations.

Part 129 prescribes a limited regulatory framework for foreign air carriers which either operate into the United States or operate U.S. registered aircraft anywhere in the world. There are currently over 200 operators subject to the FAA's Part 129 rules, most of which are under the surveillance jurisdiction of my staff based in our Eastern, Western, and Southern Regions.

As I mentioned a moment ago, our regulatory framework for foreign air carriers is limited in scope. Common international "baseline" safety standards are established and maintained under the auspices of the International Civil Aviation Organization (ICAO).

Principles of international law call for sovereign nations to regulate most aspects of the operations of carriers operating

under their flag. This committee recently recognized this important element of international law in its aging aircraft bill when it called upon the FAA Administrator to take steps to encourage foreign authorities to adopt the kinds of aging aircraft improvements FAA has made domestically. Two distinctions should be made, however. Aircraft, wherever registered, must operate in accordance with another nation's air traffic control-related requirements, and the nation of registry of an aircraft, even when the aircraft is operated by another country's air carrier, bears responsibility for the airworthiness of its registered aircraft. Our regulations recognize those responsibilities, by requiring all persons (foreign or domestic) to operate aircraft within the United States in accordance with most of our operating regulations of Part 91 of the Federal Aviation Regulations. Additionally, Part 129 requires that foreign air carriers operating U.S. registered aircraft maintain them in accordance with U.S. maintenance standards.

Part 129 prescribes generally that foreign air carriers must possess operations specifications issued by the FAA setting forth airports to be used, routes or airways to be flown, and such operations rules and practices as are necessary to prevent collision between foreign aircraft and other aircraft. Foreign air carriers are also required to possess airworthiness certificates issued or validated by the country of registry and

may use only flight crewmembers who hold current certificates or licenses issued or validated by the country in which the aircraft is registered.

Our surveillance of foreign air carrier operations is typically limited in scope. Obvious problems noted by our inspectors are dealt with, as are possible violations of air traffic operational rules. And, in the case of U.S. registered aircraft operated by foreign air carriers, maintenance inspections are conducted.

The Subcommittee's concern today is primarily focused on those foreign carriers whose ownership or management is associated with U.S. entities but whose U.S. safety regulation falls under Part 129 of the FAR's rather than Part 121, which applies to domestic operators. This is a somewhat complicated area, calling into question economic, competition, and potential safety implications. As with many complicated issues, there is no obvious single or simple answer. The FAA's concern is not with the competitive aspects of the issue, but rather is focused on the potential safety implications of such operations. We are aware of no evidence to indicate that such operations, because of the involvement of U.S. entities, are any less safe than operations by Part 129 carriers, in general.

On the whole, operation as a Part 129 carrier, in accordance with lawful authority, rather than as a Part 121 carrier does not per

se raise a safety issue. In other words, many foreign air carrier operations are conducted in a highly professional, competent, well-monitored fashion. Not all foreign air carrier operations are equal, though, and not all foreign authorities actively monitor these operations despite the international regulatory regime which provides for surveillance of an air carrier by the nation under whose authority it is operating. Not all nations have equivalent capabilities to meet this international obligation, and this is where we intend to focus our attention.

In order to strengthen our efforts in the international area, we are going to examine more closely the capabilities of foreign civil aviation authorities to meet their surveillance and oversight responsibilities under international law. Many nations have strong civil aviation programs and clear capabilities to oversee their air carriers' operations. Other countries are not as sophisticated. We plan to make these distinctions.

Once we have assessed the apparent oversight capabilities of the respective foreign civil aviation authorities, we will, in cases where there is not demonstrable capability, seek further information on their surveillance programs. If satisfactory programs are not found, we will consult with the appropriate authorities to see what can be done to strengthen the surveillance process. One step could be for the FAA to play a stronger role in

working with a nation to assist it in the fulfillment of its surveillance responsibilities; another could be for the other nation to agree to adopt a more strict regulatory framework--such as Part 121--for its operators, with FAA's assistance in certification and surveillance. These issues will be addressed on a case-by-case basis.

We are currently working with the Department of State to place additional aviation safety inspectors overseas to strengthen our surveillance of foreign air carrier operations with U.S. registered aircraft outside the United States. This is an important element in our overall effort to increase our own oversight capabilities. Internally, we are working on improving guidance to our inspector workforce to delineate more clearly and emphasize their responsibilities associated with foreign operators to assure consistency in practice. And we are also taking steps to establish and staff a new unit in Miami to monitor and oversee Part 129 operations in that region. This new unit should help assure that both adequate resources and attention are focused on foreign air carrier operations.

In closing, Mr. Chairman, I would point out that we see the matter of foreign air carrier operations as a broad issue, rather than a limited one associated with foreign carriers with substantial relationships with U.S. entities. Our focus, therefore, is a

-6-

broader one that will look at the surveillance activities and capabilities of foreign authorities generally. Within the bounds of the international framework of air transportation and with appropriate recognition of comity in our dealings with other sovereigns, we intend to bolster our work with the international community to assure greater compliance with the obligations a nation assumes when it authorizes an air carrier to serve under its flag.

That completes my prepared statement. I would be pleased to respond to questions you may have at this time.